

Subpart 909.4—Debarment, Suspension, and Ineligibility

SOURCE: 61 FR 39857, July 31, 1996, unless otherwise noted.

909.400 Scope of subpart.

This subpart—

(a) Prescribes policies and procedures governing the debarment and suspension of organizations and individuals from participating in Department of Energy (DOE) contracts, procurement sales contracts, and real property purchase agreements, and from participating in DOE approved subcontracts and subagreements.

(b) Sets forth the causes, procedures, and requirements for determining the scope, duration, and effect of DOE debarment and suspension actions; and

(c) Implements and supplements FAR subpart 9.4 with respect to the exclusion of organizations and individuals from procurement contracting and Government approved subcontracting.

909.401 Applicability.

The provisions of this subpart apply to all procurement debarment and suspension actions initiated by DOE on or after the effective date of this subpart. Nonprocurement debarment and suspension rules are codified in 10 CFR part 1036.

909.403 Definitions.

In addition to the definitions set forth at FAR 9.403, the following definitions apply to this subpart:

Debarring Official. The DOE Debarring Official is the Deputy Assistant Secretary for Procurement and Assistance Management, or designee.

DOE means the Department of Energy, including the Federal Energy Regulatory Commission.

Suspending Official. The DOE Suspending Official is the Deputy Assistant Secretary for Procurement and Assistance Management, or designee.

909.405 Effect of listing. (DOE coverage—paragraph (e), (f), (g) and (h))

(e) The Department of Energy may not solicit offers from, award contracts to or consent to subcontract with contractors debarred, suspended or pro-

posed for debarment unless the Deputy Assistant Secretary for Procurement and Assistance Management makes a written determination justifying that there is a compelling reason for such action in accordance with FAR 9.405(a).

(f) DOE may disapprove or not consent to the selection (by a contractor) of an individual to serve as a principal investigator, as a project manager, in a position of responsibility for the administration of Federal funds, or in another key personnel position, if the individual is on the GSA List.

(g) DOE shall not conduct business with an agent or representative of a contractor if the agent's or representative's name appears on the GSA List.

(h) DOE shall review the GSA List before conducting a preaward survey or soliciting proposals, awarding contracts, renewing or otherwise extending the duration of existing contracts, or approving or consenting to the award, extension, or renewal of subcontracts.

[61 FR 39857, July 31, 1996; 61 FR 41684, Aug. 9, 1996]

909.406 Debarment.

909.406-2 Causes for debarment. (DOE coverage—paragraphs (c) and (d))

(c) The Debarring Official may debar a contractor for any other cause of so serious or compelling a nature that it affects the present responsibility of a DOE contractor. Such cause may include but is not limited to:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private contract or subcontract; and

(2) Inexcusable, prolonged, or repeated failure to pay a debt (including disallowed costs and overpayments) owed to DOE, provided the contractor has been notified of the determination of indebtedness, and further provided that the time for initiating any administrative or legal action to oppose or appeal the determination of indebtedness has expired or that such action, if initiated, has been concluded.

(d) The Debarring Official may debar a contractor:

(1) On the basis that an individual or organization is an affiliate of a